

HOUSE BILL REPORT

HB 2258

As Reported by House Committee On:

Insurance, Financial Services & Consumer Protection

Title: An act relating to studying a database for small loans.

Brief Description: Requiring a study of implementing a database for small loans.

Sponsors: Representatives Appleton, Kirby, Roach, Hurst, Santos, Kelley and Simpson.

Brief History:

Committee Activity:

Insurance, Financial Services & Consumer Protection: 2/22/07, 2/27/07 [DPS].

Brief Summary of Substitute Bill

- Requires the Director of the Department of Financial Institutions (Director) to study the cost of a database that allows a licensee to do a real-time check of outstanding small loans and the effectiveness of a database in limiting the possibility of an excessive number of contemporaneous small loans.
- Requires the Director to study the impact of a database upon the privacy of small loan customers and to conduct surveys to determine concerns of small loan customers with having their borrowing habits monitored.

HOUSE COMMITTEE ON INSURANCE, FINANCIAL SERVICES & CONSUMER PROTECTION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Kirby, Chair; Kelley, Vice Chair; Roach, Ranking Minority Member; Strow, Assistant Ranking Minority Member; Hurst, Rodne, Santos and Simpson.

Staff: Jon Hedegard (786-7127).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Payday lending practices are regulated by the Department of Financial Institutions (DFI) under the Check Cashers and Sellers Act (Act), Chapter 31.45 RCW. The phrase "payday loan" refers to a type of short-term, unsecured loan that is typically offered to consumers by a business outlet offering check cashing services. In a typical payday loan transaction, the consumer writes the lender a post-dated check and, in return, the lender provides a lesser amount of cash to the consumer after subtracting interest and fees. Following this initial transaction, the lender holds the check for a specified period, during which the consumer has the option of either redeeming the check by paying the face amount to the lender or allowing the lender to cash the check after the loan period has expired.

The Act contains provisions for the licensing and regulation of businesses offering services related to check cashing and the selling of money orders, drafts, checks, and other commercial paper. The Act regulates payday lending practices and provides for regulation of licensees who are specifically authorized to issue small loans. No lender may lend more than \$700 to a single borrower at any one time. The lender may charge up to 15 percent for the first \$500. If the borrower has a loan in excess of \$500, the lender can charge up to 10 percent on the amount over \$500. For example, a lender could charge up to \$30 for a \$200 loan or up to \$85 for a \$600 loan.

Under the Act, licensees must maintain business books, accounts, and records. The books and accounts must be maintained for at least two years after a transaction. The DFI also has statutory authority to examine books, accounts, records, and files, or other information of licensees and persons that the agency has reason to believe is engaging in the business governed by Chapter 31.45 RCW.

Borrowers and lenders may agree to a payment plan for payday loans at any time. After four successive loans, and prior to default on the last loan, a borrower is entitled to convert his or her loans into a payment plan with the lender. Such payment plans are subject to the following conditions:

- a written agreement is required;
- the lender may charge the borrower a one-time fee in an amount up to the fee or interest on the outstanding principal;
- the agreement must allow the buyer not less than 60 days to pay off the loan; and
- the borrower must be allowed to pay off the loan in at least three payments.

The Director of the Department of Financial Institutions (Director) may impose the sanctions against any:

- licensee;
- applicant; or
- director, officer, sole proprietor, partner, controlling person, or employee of a licensee.

Sanctions may include:

- the denial, revocation, suspension, or conditioning of a license;
- an order to cease and desist from specific practices;
- the imposition of a fine not to exceed \$100 per day for each day's violation;
- the provision of restitution to borrowers or other injured parties; and

- the removal from office or banning from participation in the affairs of any licensee.
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Summary of Substitute Bill:

The Director must study the merits of implementing a real-time database. The database must allow a licensee to verify if a consumer has an outstanding small loan. The Director must:

- study the cost of a database;
- study the impact of a database upon the privacy of small loan customers;
- conduct surveys to determine concerns of small loan customers with having their borrowing habits monitored; and
- the effectiveness of a database in limiting the possibility of an excessive number of contemporaneous loans.

The Director must provide the study to the financial regulation committees of the Legislature no later than November 30, 2007. The Director may include recommendations based upon the study.

Substitute Bill Compared to Original Bill:

In the study of a database, the Director must also study the impact of a database upon the privacy of small loan customers and conduct surveys to determine concerns of small loan customers with having their borrowing habits monitored.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) This bill would study the cost and effectiveness of a database. I believe the purpose of the bill and need for the bill are self-explanatory. It is a part of the omnibus bills. I urge the passage of the bill.

(In support with concerns) I own two small payday loan stores. The payday industry has a higher rate of default than other lending industries. Much of our profit is lost to bad debt. Some companies lose up to 25 percent of their profit to bad debt.

(Opposed) The Congress of Racial Equality (CORE) champions self-reliance. We look at finding real solutions for people. We have looked at this industry. There are a variety of actors and many of them are good actors. This product is needed by some people. It is a choice. It is also an option for people that have few choices in lenders. We strongly oppose this bill. Even though it is just a study at this point, it is a dangerous harbinger of a future

proposal. What is the purpose of a database? To prevent people from making choices? It is government's role to safeguard liberties, not to limit them. A database that tracks and limits choices is antithetical to American ideals. If that is desired, why is it limited to one financial product? Why not include credit card debt and other debt? If this can be tracked, what will be next? We reject the race-baiting claims sometimes associated with this industry. They only detract from focusing on the actual problems. If people of color are actually singled out for this product then a database will inherently be a tool to track people of color. This is a great concern. I have been interested in the issues associated with payday loans for quite some time. Washington has progressive payday loan laws. It is a well-regulated industry. Measuring the product by interest rate is inaccurate. It is a short-term loan. Cash advances on a credit card charge a fee and interest. There is no real interest on a payday loan. There is a one-time fee. The repayment plan in Substitute House Bill 1817 is a better option for people. Payday lenders charge less for many products, like money orders, than banks. This helps low-income people. I oppose any mechanism to track people's financial activity. This is an issue of civil liberties. People of color have been tracked in this country before and any mechanism that could do that is a concern.

Persons Testifying: (In support) Representative Appleton, prime sponsor.

(In support with concerns) Gary Zacher, Access Cash.

(Opposed) Niger Innis, Congress of Racial Equality; and Constance Proctor, Vanderberg Johnson & Gandara.

Persons Signed In To Testify But Not Testifying: None.